

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH**

...

Criminal Revision No.1988 of 2007

Decided on : November 22, 2007

Mahender Singh

... Petitioner

VERSUS

The State of Haryana

... Respondent

CORAM :
HON'BLE MR.JUSTICE A.N.JINDAL

Present: Mr.Paramjit Singh Jammu,
Advocate for the petitioner.

Mr.K.S.Godara, Deputy Advocate General
for the respondent – State of Haryana.

A.N.JINDAL, J.-

This revision petition is directed against the judgment dated 6.10.2007 passed by Sessions Judge, Sirsa, dismissing the appeal of the petitioner against the judgment dated 31.8.2004 convicting the petitioner under Section 61)1)(a) of the Punjab Excise Act and sentencing him to undergo rigorous imprisonment for two years and to pay fine of Rs.2000/-, in default of which, to further undergo simple imprisonment for one month. However, in appeal, the Sessions Judge has reduced the sentence of imprisonment to six months without making any alteration in fine.

Briefly stated the story of the prosecution is that on 13.4.1998, on the basis of secret information, the police party led by Ram Chander ASI

and assisted by Mahender Singh Randhawa, Excise Inspector, Sirsa raided the house of the petitioner, but he escaped. However, on search of his house eight bags, containing 25 bottles of liquor of Rajasthan make, each were recovered. One bottle from each bag was separated as sample and the samples and the bags with remaining bottles were separately sealed with the seal of 'RC'. On the basis of Ruqa, the case was registered, rough site-plan of the place of occurrence was prepared and statements of the witnesses were recorded.

Completion of investigation was followed by a report under Section 173 of the Code of Criminal Procedure. The petitioner was charge-sheeted for the aforesaid offence, to which he opted to contest.

In order to substantiate its case, the prosecution examined five witnesses in all. When examined under Section 313 of the Code of Criminal Procedure, the petitioner denied all the allegations and pleaded his innocence. The trial ended in conviction and the appeal was also dismissed. Hence, the present petition.

At the very outset, without assailing the conviction recorded against the petitioner, Mr.Paramjit Singh Jammu, learned counsel has sought extension of the benefits of probation towards the petitioner by taking some lenient view. He also states that the petitioner has already undergone more than 2½ months out of the substantive sentence.

Records before me transpire that the occurrence took place as far back as in the year 1998. The petitioner has already suffered lot of agony due to protracted proceedings for the last more than nine years. That apart, the Trial Court denied him benefit of probation because of his

previous conviction under the Arms Act in an incident, which occurred in the year 1983. However, taking a lenient view and also keeping in view the fact that earlier conviction related to an incident, which took place about 24 years ago and that it was under Arms Act, the sentence is modified to the extent that the petitioner is extended the benefit of probation under Section 4(1) of the Probation of Offenders Act, 1958 on his executing bond in the sum of Rs.5000/- with one surety, in the like amount to the satisfaction of the Trial Court for a period of one year within which period he will continue to be of good behaviour and keep peace and in case of breach of conditions of the bond, he will be ready to serve the sentence as and when called for. This modification shall be subject to deposit of Rs.3000/- by the petitioner towards costs of the litigation, in addition to the fine amount.

With the above modification in the sentence, the petition is dismissed.

(A.N.JINDAL)
JUDGE

The 22nd day of November, 2007
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To be Referred to Reporter - Yes/ No